

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7380

Petition of the City of Burlington Electric)
Department for an amended certificate of public)
good, pursuant to 30 V.S.A. § 248(j), authorizing)
the installation of a selective catalytic reduction)
system at the Joseph C. McNeil Generating Station)
in the City of Burlington, Vermont, and amending)
Condition 10E of the McNeil CPG)

Order entered: 2/28/2008

I. INTRODUCTION

This case involves a petition filed by the City of Burlington Electric Department ("BED") on November 16, 2007, on behalf of itself and the other joint owners of the Joseph C. McNeil Generating Station ("McNeil"). BED requests an amendment to its Certificate of Public Good ("CPG") for McNeil pursuant to 30 V.S.A. § 248(j) to install a selective catalytic reduction system at McNeil for the purpose of reducing emissions of oxides of nitrogen (NOx) and other greenhouse gases from the facility (the "Project"). The petition also seeks to amend Condition 10e of McNeil's CPG to exempt BED from having to file wood chip harvesting plans with the Vermont Agency of Natural Resources' ("ANR") Department of Fish and Wildlife for operations that have already been reviewed as part of the Act 250 or Section 248 development review process. BED submitted prefiled testimony, proposed findings, and a proposed order pursuant to the requirements of 30 V.S.A. § 248(j).

Notice of the filing in this Docket was sent on January 10, 2008, to all entities specified in 30 V.S.A. §248(a)(4)(c), and all other interested parties. The notice stated that any party wishing to submit comments as to whether the petition raises a significant issue with respect to the substantive criteria of 30 V.S.A. § 248 needed to file comments with the Board on or before

February 11, 2008. A similar notice of the filing was published in the *Burlington Free Press* on January 14, and 21, 2008.

ANR and the Vermont Department of Public Service ("Department") submitted comments on February 11, 2008. On the same day, the Board notified BED and others indicating that they could respond to these comments by the close of business, February 14, 2008. BED submitted responsive comments.

The Board has determined that the proposed construction, as conditioned, will be of limited size and scope and that the petition has effectively addressed the issues raised with respect to the substantive criteria of 30 V.S.A. § 248. Consequently, we find that the procedures authorized by Section 248(j) are sufficient to satisfy the public interest, and no hearings are required.

II. FINDINGS

1. BED, whose principal place of business is at 585 Pine Street, Burlington, Vermont, is a municipally-owned public service "company," as defined by Section 201(a) of Title 30 that is subject to the Board's jurisdiction pursuant to Section 203(1) of Title 30. Petition at 1.

2. BED is the lead joint-owner of McNeil, a 50 MW wood-burning electric generating facility located in the Intervale area of Burlington, Vermont. BED owns a fifty percent (50%) interest in the facility. The other joint-owners of McNeil are Central Vermont Public Service Corporation (20%), Vermont Public Power Supply Authority (19%) and Green Mountain Power Corporation (11%). Petition at 1; Irving pf. at 2.

3. The Board issued a CPG pursuant to § 248 of Title 30 for the construction of McNeil in Docket 4450 on September 14, 1981. The McNeil CPG was subsequently amended on three separate occasions. The CPG was first amended on June 22, 1983, resulting in the alteration of Condition 10 of the original CPG concerning the size of the professional forestry staff, advance notification of wood fuel harvesting operations to the Vermont Department of Fish and Game, and adherence to certain guidelines and standards for harvesting operations. The second amendment, issued on August 2, 1989, in Docket 4450-B, authorized BED to utilize natural gas for the generation of electricity at McNeil. In Docket 4450-C, the Board issued a third amended

CPG on June 30, 1995, that allowed for the use of biomass gas in McNeil's main boiler as part of Future Energy Resource Corporation's Vermont Gasification Project as permitted in Docket 5805. Petition at 1; Irving pf. at 2-3.

4. The Project involves the installation of selective catalytic reduction ("SCR") technology in the exhaust stream between McNeil's boiler and chimney for the purpose of significantly reducing the emission of oxides of nitrogen ("NOx") from the plant. The process involves the injection of ammonia into the exhaust stream, which reacts with NOx to create benign nitrogen and water vapor. Irving pf. at 3-6; Kennedy pf. at 5; exhs. BED-2 and BED-3.

5. The SCR equipment will occupy a footprint of approximately 70' by 30' and will be installed at the north end of the existing plant either adjacent to the existing stack or on the east side adjacent to the electrostatic precipitator depending upon which vendor is selected. The project also will require the installation of an ammonia storage tank twelve feet (12') in diameter on the north side of the existing plant. Irving pf. at 6; exhs. BED-4 and BED-5.

Orderly Development of the Region

[30 V.S.A. § 248(b)(1)]

6. The proposed project will not unduly interfere with the orderly development of the region, with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendation of the municipal legislative body, and the land conservation measures contained in the plan of the affected municipality. This finding is supported by findings 7 through 11, below.

7. The project will be constructed immediately adjacent to McNeil and is consistent with the present use of the site as an electrical generating facility. Irving pf. at 8.

8. The project is consistent with the 2006 Burlington Municipal Development Plan which, at Page VIII-3, recognizes the existence of McNeil, and that BED will "continue to take the necessary steps to minimize emissions." Irving pf. at 8.

9. The project is consistent with 2006 Chittenden County Regional Plan policies on energy, and will enhance the orderly development of the region. Irving pf. at 9; exh. BED-8.

10. The Burlington City Council passed a resolution on September 24, 2007, authorizing BED to seek approval from the Board , and to seek voter approval as required by 30 V.S.A. § 248(c), once the project is approved. Irving pf. at 9; exh. BED-9.

11. Both the Burlington Planning Commission and the Chittenden County Regional Planning Commission have waived the 45-day advance notice requirement under 30 V.S.A. § 248(f). Irving pf. at 8-9; exhs. BED-7 and BED-8.

Need for Present and Future Demand for Service

[30 V.S.A. § 248(b)(2)]

12. The proposed project is required to meet the need for present and future demand for service which could not otherwise be provided in a more cost-effective manner through energy conservation programs and measures and energy efficiency and load management measures. The project will not increase the generating capacity of the plant, but rather will allow McNeil to utilize more wood fuel, and meet the present demand for its services with fewer air emissions. Irving pf. at 9-10.

13. The project also is expected to allow McNeil to meet the present demand for its services at lower costs than at present by operating at a higher capacity factor, thereby increasing the economic viability of the facility to ensure that it remains available to supply Vermonters' energy needs into the foreseeable future. Irving pf. at 10.

System Stability and Reliability

[30 V.S.A. § 248(b)(3)]

14. The proposed project will not adversely affect system stability and reliability. There will be a 100% bypass duct to allow operation of McNeil whenever the SCR system is out of service. Irving pf. at 10-11.

Economic Benefit to the State

[30 V.S.A. § 248(b)(4)]

15. The project will result in an economic benefit to the state and its residents. This finding is supported by findings 16-22, below.

16. The total construction cost for the project is estimated at \$10 Million, and annual operating and maintenance costs are estimated at \$1.2 Million. Irving pf. at 11-12.

17. The project will allow McNeil to qualify for the Connecticut Class I Renewable Energy Credit ("REC") market. Irving pf. at 11.

18. McNeil is projected to generate upwards of 250,000 Class I RECs per year. Irving pf. at 11.

19. BED estimates that the McNeil Joint Owners will cover the costs of the Project and avoid cost increases to its customers so long as they are able to sell McNeil generated RECs for \$20.00 per REC for the first three years and \$4.00 per REC thereafter. Irving pf. at 11-12.

20. Connecticut Class I RECs are presently trading at over \$50 per REC. Irving pf. at 12.

21. BED may utilize market mechanisms, such as "tiered forward sales," "unit contingent sales," and other financing arrangements to maximize the economic benefits of the Project, which at the same time are intended to ensure a return that is sufficient to recover its investment. Irving pf. at 12-13.

22. REC sales are expected to allow McNeil to bid its output into the ISO-NE system at a lower cost, thereby increasing the plant's capacity factor and making more economical use of an existing generating asset. Irving pf. at 13.

Aesthetics, Historic Sites, Air and Water Purity,
the Natural Environment and Public Health and Safety

[30 V.S.A. § 248(b)(5)]

23. The proposed project will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment or the public health and safety. This finding is supported by findings 24 through 49, below, which are the criteria specified in 10 V.S.A. §§1424 (a)(d) and 6086(a)(1)-(8)(a) and (9)(k).

Outstanding Resource Waters

[10 V.S.A. § 1424(a)(d)]

24. There are no designated outstanding resource waters in the area of the proposed project. Irving pf. at 19; Nelson pf. at 4.

Water and Air Pollution

[10 V.S.A. § 6086(a)(1)]

25. As conditioned, the proposed project will not result in undue water or air pollution. This finding is supported by findings 26 through 45, below.

Headwaters

[10 V.S.A. § 6086(a)(1)(A)]

26. The proposed project is not located in a headwaters area. Irving pf. at 14; Nelson pf. at 5-6; Docket No. 4450-B, Order of 8/29/89 at 13; Docket Nos. 5805 and 4450-C, Order of 6/30/95 at 11.

Waste Disposal

[10 V.S.A. § 6086(a)(1)(B)]

27. The project does not involve disposal of wastes or injection of any harmful or toxic material into surface or ground water, and any discharge into surface or groundwater will be in compliance with General Permit No. 3-9010, and McNeil's stormwater pollution prevention plan required under Section 2 of the Multi-Sector General Permit issued under the federal Clean Water Act, 33 U.S.C § 1251 et seq., and 10 V.S.A §§ 1250-83. Irving pf. at 14; Nelson pf. at 6-7.

Water Conservation

[10 V.S.A. § 6086(a)(1)(C)]

28. The proposed project will not involve any impact on potable water supplies. Irving pf. at 14; Nelson pf. at 7.

Floodways, Streams, and Shorelines

[10 V.S.A. §§ 6086(a)(1)(D)(E) &(F)]

29. The project will not be constructed within a floodway, and it will not increase any existing danger to the health, safety or welfare of the public during flooding. Irving pf. at 14-15; Nelson pf. at 7-8; Docket No. 4450-B, Order of 8/29/89 at 14; Docket Nos. 5805 and 4450-C, Order of 6/30/95 at 12-13.

Wetlands

[10 V.S.A. § 6086(a)(1)(G)]

30. There are no wetlands that will be impacted by the project. Irving pf. at 14; Nelson pf. at 8-9; Docket No. 4450-B, Order of 8/29/89 at 14; Docket Nos. 5805 and 4450-C, Order of 6/30/95 at 12-13.

Sufficiency of Water and Burden on Existing Water Supply

[10 V.S.A. §§ 6086(a)(2)&(3)]

31. The proposed project will not use water, draw down any existing water supply, or result in impacts to potable water supplies. Irving pf. at 14; Nelson pf. at 9.

Soil Erosion

[10 V.S.A. § 6086(a)(4)]

32. The Project will not cause unreasonable soil erosion or reduce the ability of the land to hold water. All excavation or earth disturbance required for construction of the Project will take place within the filled area of the McNeil site which is a relatively flat area. Appropriate soil erosion measures will be required and practiced during the construction period. Irving pf. at 15; Nelson pf. at 9; Docket Nos. 5805 and 4450-C, Order of 6/30/95 at 14.

Transportation Systems

[10 V.S.A. § 6086(a)(5)]

33. The proposed project will not cause unreasonable congestion or unsafe conditions with respect to transportation systems. This finding is supported by findings 34 through 38, below.

34. The proposed project will not cause unreasonable congestion or unsafe conditions with respect to transportation systems. Construction will take place at the substation, which is away from busy town streets and state highways. Fontaine pf. at 15.

35. Construction of the project will entail no more than thirty-five (35) truck deliveries of equipment over a three-month period. Irving pf. at 16.

36. Once operational, the project will require one (1) truck per week delivering 6,000 gallons of 19% aqueous ammonia to the site. Irving pf. at 16.

37. The plant currently requires approximately 80 wood fuel truck trips and 8 ash truck trips per week. If the project results in increased dispatch of McNeil, one (1) additional fuel truck delivery per day coming through Burlington is anticipated. Irving pf. at 16.

38. All wood fuel deliveries will continue to comply with the fuel delivery conditions contained in McNeil's original CPG. Irving pf. at 16.

Educational and Municipal Services

[10 V.S.A. § 6086(a)(6)&(7)]

39. The proposed project will not cause an unreasonable burden on the ability of the affected municipalities to provide education or municipal services as no new hires are expected as a result of the project. Irving pf. at 16.

Aesthetics, Historic Sites and Rare and Irreplaceable Natural Areas

[10 V.S.A. § 6086(a)(8)]

40. The proposed project will not have an undue adverse effect on the scenic or natural beauty, aesthetics, historic sites or rare and irreplaceable natural areas. The project will be constructed in a previously-disturbed area immediately adjacent to the existing plant in a manner that allows it to blend with the existing structures. The project will not detract from its surroundings since it will take place in an area already industrial in character, which is visible from a limited number of vantage points in the general vicinity. Irving pf. at 6 and 17; Nelson pf. at 9; Docket No. 4450-B, Order of 8/29/89 at 17; Docket Nos. 5805 and 4450-C, Order of 6/30/95 at 15-16.

Necessary Wildlife Habitat and Endangered Species

[10 V.S.A. § 6086(a)(8)(A)]

41. The proposed project would not impact identified necessary wildlife habitat or endangered species. Irving pf. at 17; Nelson pf. at 9; Docket No. 4450-B, Order of 8/29/89 at 17-18.

Development Affecting Public Investments

[10 V.S.A. § 6086(a)(9)(K)]

42. The proposed project is not located near any public or quasi-public investments, government or public facilities, services, or lands. Irving pf. at 17-18.

Least-Cost Integrated Resource Plan

[30 V.S.A. § 248(b)(6)]

43. The project is consistent with BED's approved 2004 Integrated Resource Plan ("IRP"), which explicitly considered installation of technology at McNeil to make the plant eligible for high value REC sales. Irving pf. at 18.

Compliance with Electric Energy Plan

[30 V.S.A. § 248(b)(7)]

44. The proposed project is consistent with the Vermont Twenty-Year Electric Plan in that it will allow for the more cost-effective and environmentally-sensitive use of an existing renewable resource. Irving pf. at 18-19.

Outstanding Resource Waters

[30 V.S.A. § 248(b)(8)]

45. The project will not affect or be located on any waters of the state designated as outstanding resource waters. Irving pf. at 19; Nelson pf. at 4.

Existing or Planned Transmission Facilities

[30 V.S.A. § 248(b)(10)]

46. The proposed project will not increase the output of the plant, therefore it can be served economically by existing transmission facilities without undue adverse effect on Vermont utilities or customers. Irving pf. at 19.

Amendment of Condition 10e

47. Condition 10e of McNeil's CPG, as amended by Order dated June 22, 1983, provides as follows:

With respect to each location within Vermont in which whole tree chipping operations are to be performed and from which chips are to be supplied, directly or indirectly, to the Petitioner, the Petitioner shall prepare a map which shows, in addition to the location of operations, information regarding the nature of the harvest (including harvest acreage and description), the approximate dates during

which operations will be conducted, and the name and address of the prospective operator. The maps and information shall be delivered to the wildlife habitat biologist employed by the Vermont Department of Fish and Game in whose district each operation will occur at least fifteen days prior to the commencement of the operation. In the event that the Department of Fish and Game determines that a modification of the harvest plan will be necessary in order to protect deer yards, wetlands or the habitat of any endangered species, or in order to assure compliance with any environmental protection law or regulation, it shall notify the Petitioner within fifteen days of receiving the map and other information described in this subparagraph. In the event that such notification is given, the Petitioner shall assure that harvesting operations do not commence until a harvesting plan is approved by the Department of Fish and Game or by this Board. Nothing contained herein shall limit the right of any person or party to seek at any time an order from this Board or from any other authority having jurisdiction requiring, for good cause, a modification or cessation of harvesting operations.

Irving pf. at 20-21; Docket No. 4450, Order, 6/22/83 at 7-8.

48. BED should be exempt from the mapping and filing requirements of Condition 10e where the wood harvesting operations are taking place following the development review process under Act 250 or Section 248 of Title 30. Irving pf. At 21-22; exh. BED-16.

49.

III. DISCUSSION

The Department and ANR have requested that the Board condition approval of BED's CPG. We discuss these requests below.

In its February 11, 2008, comments, the Department stated that a hearing on the project is unnecessary if BED is willing to agree to three conditions.¹ First, the Department proposes that BED notify the Board and the Department of the eligibility of the Project for classification as a Class I renewable resource in the Connecticut Renewable Energy Credits (RECs) Market. If eligibility is denied, the Department recommends that the Board ask for a second round of comments because the project's economic viability is closely related to the income stream from the sale of Class 1 RECs. The Department indicates that the Connecticut Department of Public Utility Control ("DPUC") will be voting on the eligibility of the Project by the end of February.

1. See generally Department Letter of February 11, 2008.

In its response, BED indicates that it has requested a declaratory ruling on the project's eligibility for Connecticut Class I renewables status, and that the request is pending before the DPUC.² BED also states that, absent such an approval, it would not go ahead with the project, and thus, does not object to a condition requiring a favorable ruling from the DPUC prior to proceeding with the project.³

We conclude that the Department's proposal to condition our approval of the Project on BED notifying the Board and the Department of the eligibility of the Project for classification as a Class I renewable resource in the State of Connecticut is a reasonable recommendation, and we hereby adopt it.

The Department's second proposal is that the Board should require BED to obtain "firm performance assurance requirements in a final contract with the vendor contracted to do the Project."⁴ The Department contends that "[b]ecause the financial viability of the project is closely tied to a finding that the RECs are eligible for classification as a Class 1 renewable resource in that they meet a strict standard through a process utilizing Selective Catalytic Reduction, BED ratepayers need this vendor to be held to a qualifying performance standard."⁵ Furthermore, according to the Department, because "BED is in the bidding process and has specified in its Request for Proposals performance requirements," the Board should ensure the "performance requirements are carried over to any final contract BED negotiates and enters into with a vendor."⁶

BED indicates that it intends to require performance assurances, "including assurances concerning NO_x and ammonia emissions, heat input requirements, electric power consumption and catalyst life, in any contract with the vendor of the SCR technology."⁷

We agree that the Project's financial viability is contingent upon BED being able to market RECs associated with the electricity that the McNeil will produce after it installs SCR

2. BED Letter of February 13, 2008, at 1.

3. *Id.*

4. *Id.* at 1.

5. *Id.*

6. *Id.* at 2.

7. BED Letter of February 13, 2008, at 2.

technology. Given this financial contingency, it is reasonable to protect BED ratepayers by holding the contractor to a qualifying performance standard and to ensure that such performance requirements are carried over to any final contract BED negotiates and enters into with a vendor. We, therefore, conclude that the Department's request to condition our approval of the Project on BED obtaining firm performance assurances in a final contract with the vendor contracted to construct the Project, to ensure that the Project and associated SCR process makes McNeil's electricity production eligible for classification as a Class 1 renewable resource, is reasonable.

The Department's third proposal would require BED to report to the Board and Department on the type of heat exchanger technology that it ultimately chooses to install at McNeil. The Department notes that this information should be available by the middle of February, and that the outcome "would not change our opinion that a hearing is not necessary but thought the Board and the Department should be informed of the ultimate technology decision."⁸

BED indicates that it has no objection to providing the Department and the Board with notice of the type of SCR technology that it ultimately determines to install.⁹

We agree that BED should inform the Board as to the precise technology that it plans to use in the project, and hereby impose that condition. Within 15 days of making its decision, BED shall report to the Board and Department the type of heat exchanger technology that BED chooses to install at McNeil.

In its February 11, 2008, comments, ANR addressed three areas: (a) air quality, (b) stormwater, and (c) the proposed CPG amendment regarding chip harvesting.¹⁰ ANR indicates that a hearing on the project is unnecessary if these conditions are included in BED's CPG.

On air quality, ANR indicates that BED has applied for a permit from ANR's Air Pollution Control Division for the proposed selective catalytic reduction system, and that the application is under review. ANR expects to address any air quality issues through that permit process, including ammonia emissions. BED agrees with this characterization and notes that it

8. Department Letter of February 11, 2008, at 2.

9. BED Letter of February 13, 2008, at 2.

10. See *generally* ANR Letter of February 11, 2008.

has proposed CPG language that would require BED to be in compliance with all state and federal regulations. Language to that effect shall be included in BED's CPG.

ANR has articulated concerns related to stormwater management, and specifically concerns related to "BED's making changes at a site that has been in noncompliance with federal and state stormwater permitting requirements."¹¹ ANR notes that "as of the filing of the petition in this matter, BED had not filed the stormwater pollution prevention plan ("SWPPP") that is required under Section 2 of the Multi-Sector General Permit ("MSGP") issued under the federal Clean Water Act, 33 U.S.C § 1251 et seq., and 10 V.S.A §§ 1250-83."¹² However, ANR indicates that it has raised this issue with BED and understands that BED will be making the appropriate filings no later than February 11, 2008.

In addition, ANR notes that "the state stormwater operating permit for the station has expired" and that McNeil "needs to renew authority to discharge stormwater by obtaining coverage under General Permit No. 3-9010." According to ANR, this issue was raised with BED and BED has filed an application for coverage under that general permit.

ANR has asked that the Board "condition any amended CPG issued in this proceeding to require that, prior to construction of the subject project, the Petitioner bring the McNeil Generating Station into compliance with the Multi-Sector General Permit and obtain coverage under General Permit 3-9010."¹³ ANR also requests that the Board so alter the Petitioner's proposed finding 28 regarding waste disposal.

BED acknowledges filing "an application for coverage under General Permit No. 3-9010 on January 30, 2008, and a stormwater pollution prevention plan as required under the Multi-Sector General Permit on February 11, 2008."¹⁴ BED indicates that it has no objection to conditioning any amended CPG to require BED to bring McNeil into compliance with the MSGP and obtain coverage under General Permit No. 3-9010 prior to construction of the Project. This condition is necessary to enable us to conclude that the project will cause no undue water pollution. We hereby include this condition in BED's CPG.

11. *Id.* at 1.

12. *Id.*

13. *Id.*

14. BED Letter of February 13, 2008, at 1-2.

With regard to BED's request to amend the language regarding chip harvesting in the existing CPG (Condition 10e), ANR has proposed revisions to language to which BED has agreed. ANR takes the position that Condition 10e should be amended to include the following language at the end of the present language described in Finding 47, above:

Notwithstanding the foregoing, Petitioner shall not be required to prepare and file with the Department of Fish and Wildlife the map and other information required by this Condition 10(e) for whole tree chipping operations associated with land clearing specifically authorized in a previously issued, final Act 250 Land Use Permit or Certificate of Public Good under 30 V.S.A. § 248. This exemption does not include timber harvest activities which are on lands subject to an Act 250 Land Use Permit or Section 248 Certificate of Public Good that are not related to the development activities permitted therein. For purposes of this exemption, any applicable Act 250 Land Use Permit or Section 248 Certificate of Public Good shall not be under appeal or available for appeal. Petitioner shall be required to secure copies of the final, signed and effective Act 250 Land Use Permit or Section 248 Certificate of Public Good prior to commencing whole tree chipping operations and shall ensure compliance with all conditions therein that pertain to removal of trees, vegetation and potential impacts to natural resources including but not limited to those important wildlife habitats referenced in the Act 250 Permit. Annually, Petitioner shall provide the Department of Fish and Wildlife with a summary of all projects subject to such exemptions within the previous twelve (12) months, which shall include location/town and date of harvest.

ANR has indicated that the purpose of the proposed revisions will ensure that "only those timber harvesting activities which have actually been reviewed as part of an Act 250 or Section 248 process are exempted from the existing Condition 10e." Such exemptions, explains ANR, would be appropriate because its Department of Fish and Wildlife would have "reviewed timber harvesting activities as part of those regulatory processes. ANR adds that the Department of Fish and Wildlife "would not have previously reviewed other timber harvesting activities that may occur on lands subject to Act 250 or Section 248 but are not authorized as part of the relevant Act 250 permit or Section 248 CPG." We conclude that BED should be exempt from the mapping and filing requirements of Condition 10e where the wood harvesting operations are taking place following the development review process under Act 250 or Section 248 of Title 30. We find ANR's proposal to be reasonable and hereby modify condition 10e of BED's existing CPG.

IV. REQUIRED VOTE AND ASSESSMENT OF RISKS AND BENEFITS

BED is required by Section 248(c) to conduct a vote on the proposed project, and to provide its voters with a written assessment of associated risks and benefits identified by the Board and an assessment of any other risks and benefits identified by BED.

The main benefits associated with the proposed project include the ability of BED to generate renewable power and to acquire the associated RECs for that generation. The main risk associated with the proposed project include the possibility that the REC market will not stay at current levels thereby compromising BED's ability to pay for the construction of the proposed project.

V. CONCLUSION

Based upon all of the above evidence, we conclude that the proposed construction will be of limited size and scope; the petition does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248; the public interest is satisfied by the procedures authorized by 30 V.S.A. § 248(j); and the proposed project will promote the general good of the state.

VI. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the proposed project, in accordance with the evidence, plans, and stipulation presented in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. Section 248, and a certificate of public good shall be issued in the matter as conditioned below:

1. Condition 10e of McNeil's existing Certificate of Public Good is amended to include the following language immediately at the end of the existing language:

Notwithstanding the foregoing, Petitioner shall not be required to prepare and file with the Department of Fish and Wildlife the map and other information required by this Condition 10(e) for whole tree chipping operations associated with land clearing specifically authorized in a previously issued, final Act 250 Land Use Permit or Certificate of Public Good under 30 V.S.A. § 248. This exemption does not include timber harvest activities which are on lands subject to an Act 250 Land Use Permit or Section 248 Certificate of Public Good that are not related to the development activities permitted therein. For purposes of this

exemption, any applicable Act 250 Land Use Permit or Section 248 Certificate of Public Good shall not be under appeal or available for appeal. Petitioner shall be required to secure copies of the final, signed and effective Act 250 Land Use Permit or Section 248 Certificate of Public Good prior to commencing whole tree chipping operations and shall ensure compliance with all conditions therein that pertain to removal of trees, vegetation and potential impacts to natural resources including but not limited to those important wildlife habitats referenced in the Act 250 Permit. Annually, Petitioner shall provide the Department of Fish and Wildlife with a summary of all projects subject to such exemptions within the previous twelve (12) months, which shall include location/town and date of harvest.

2. Construction, operation, and maintenance of the project shall be in accordance with the plans and evidence submitted in this proceeding, and with all state and federal regulations.

3. The City of Burlington Electric Department ("BED") shall obtain and adhere to the terms of all other state, federal and local permits which may be required in connection with the proposed project.

4. BED shall notify the Board and the Department of the eligibility of the Project for classification as a Class I renewable resource in the State of Connecticut prior to proceeding with construction.

5. BED shall obtain firm performance assurances in a final contract with the vendor contracted to construct the Project, in order to ensure that the Project and associated SCR process makes McNeil's electricity production eligible for classification as a Class 1 renewable resource in the State of Connecticut.

6. Within 15 days of making its decision, BED shall report to the Public Service Board and the Department of Public Service the type of heat exchanger technology that BED chooses to install at McNeil.

7. BED shall bring the McNeil Generating Station into compliance with the Multi-Sector General Permit and obtain coverage under General Permit 3-9010 prior to construction of the Project.

Dated at Montpelier, Vermont, this 28th day of February, 2008.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: February 28, 2008

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.